

REMARKS

This is a full and timely response to the non-final Office Action of March 11, 2005. Reexamination, reconsideration, and allowance of the application and all presently pending claims are respectfully requested.

Upon entry of this First Response, claims 1-33 are pending in this application. Claims 5, 8, and 18 are directly amended herein, and claims 27-33 are newly added. It is believed that the foregoing amendments add no new matter to the present application.

Response to §102 Rejections

A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. See, e.g., *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983).

Claim 1

Claim 1 presently stands rejected under 35 U.S.C. §102 as allegedly being anticipated by *Shah* (U.S. Patent Application Publication No. 2003/0208572 A1). Claim 1 presently reads as follows:

1. A communication system, comprising:
a plurality of clients;
a plurality of network elements; and
an element management system (EMS) interfaced with the clients and the network elements, the EMS configured to track which of the network elements are of interest to the clients, ***the EMS further configured to automatically monitor the network elements based on which of the network elements are determined, by the EMS, to be of interest to the clients***, the EMS further configured to provide the clients with information indicative of the monitored elements. (Emphasis added).

Applicants respectfully assert that *Shah* fails to disclose at least the features of claim 1 highlighted hereinabove. Accordingly, the 35 U.S.C. §102 rejection of claim 1 is improper.

In this regard, *Shah* discloses a “subnet manager” that appears to monitor data paths in a network. When a new data path is created or an existing data path is destroyed, the “subnet manager” apparently determines which clients are interested in the newly created or destroyed data path and notifies these clients about the newly created or destroyed data path. See Paragraphs 37, 39, 43, and 44. Thus, the reporting of detected data path changes appears to be based on which clients are interested in which detected data path changes. However, there is nothing in *Shah* to indicate that the *monitoring* of the data paths is in any way based on which of the clients are interested in the data paths. Indeed, the “subnet manager” apparently determines which of the clients are interested in a data path change *after* the data path change has been detected. See Figure 7, blocks 812 and 814. Thus, the monitoring of the data paths by the “subnet manager” appears to be the same regardless of which clients are interested in which data paths, and only the *reporting* of the detected data path changes appears to be based on the interests of the clients. Accordingly, there is nothing in *Shah* to indicate that the alleged “EMS” is configured to “automatically monitor the network elements based on which of the network elements are determined, by the EMS, to be of interest to the clients,” as described by claim 1.

For at least the above reasons, Applicants respectfully assert that *Shah* fails to disclose each feature of claim 1. Therefore, the 35 U.S.C. §102 rejection of claim 1 should be withdrawn.

Claims 2-10 and 27-31

Claims 2-10 presently stand rejected in the Office Action under 35 U.S.C. §102 as allegedly being anticipated by *Shah*. Further, claims 27-31 have been newly added via the amendments set forth herein. Applicants submit that the pending dependent claims 2-10 and 27-31 contain all features of their respective independent claim 1. Since claim 1 should be allowed, as argued hereinabove, pending dependent claims 2-10 and 27-31 should be allowed as a matter of law for at least this reason. *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988). Furthermore, these dependent claims recite patentably distinct features and/or combinations of features that make them allowable, notwithstanding the allowability of their base claim 1.

For example, claim 6 presently reads as follows:

6. The system of claim 1, wherein the EMS is configured to store graphical user interface (GUI) code defining a GUI associated with one of the network elements, ***the EMS configured to retrieve the GUI code in response to a request received from one of the clients and to transmit the retrieved GUI code to the one client***, wherein the request identifies the one network element. (Emphasis added).

In rejecting claim 6, it is asserted in the Office Action that the above features are disclosed at Paragraph 49, lines 5-15, of *Shah*. Such a paragraph of *Shah* apparently discloses a GUI. However, there is nothing in this paragraph of *Shah* to indicate that the code defining the GUI is transmitted by the alleged “EMS” to any of the alleged “clients.” Accordingly, *Shah* fails to disclose at least the features of claim 6 highlighted above, and the 35 U.S.C. §102 rejection of claim 6 should be withdrawn, notwithstanding the allowability of independent claim 1.

In addition, claim 7 presently reads as follows:

7. The system of claim 6, wherein the EMS is configured to enable a user to ***update the stored GUI code***, and wherein the EMS is further configured ***to detect an update to the stored GUI code and to transmit the updated GUI code*** to the one client in response to a detection of the update. (Emphasis added).

In rejecting claim 7, it is asserted in the Office Action that the above features are disclosed at Paragraph 49, lines 1-15, of *Shah*. However, such a section of *Shah* appears to describe a network topology change, which apparently occurs while the alleged GUI is running. In such an example, the alleged GUI updates the ***data*** being manipulated by the GUI. However, there is nothing in Paragraph 49 to indicate that the ***code*** defining the GUI is updated in any way. Accordingly, *Shah* fails to disclose at least the features of claim 7 highlighted above, and the 35 U.S.C. §102 rejection of claim 7 should be withdrawn, notwithstanding the allowability of independent claim 1.

Claim 11

Claim 11 presently stands rejected under 35 U.S.C. §102 as allegedly being anticipated by *Shah*. Claim 11 presently reads as follows:

11. An element management system (EMS) for managing elements of a communication network, comprising:
means for tracking which of the network elements are of interest to a plurality of clients;
means for automatically monitoring the network elements of interest to the clients based on the tracking means; and
means for providing the clients with information indicative of the monitored elements. (Emphasis added).

For at least reasons similar to those set forth in the arguments for allowance of claim 1, Applicants respectfully assert that *Shah* fails to disclose at least the features of claim 11

highlighted hereinabove. Accordingly, the 35 U.S.C. §102 rejection of claim 11 should be withdrawn.

Claims 12-16

Claims 12-16 presently stand rejected in the Office Action under 35 U.S.C. §102 as allegedly being anticipated by *Shah*. Applicants submit that the pending dependent claims 12-16 contain all features of their respective independent claim 11. Since claim 11 should be allowed, as argued hereinabove, pending dependent claims 12-16 should be allowed as a matter of law for at least this reason. *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988). Furthermore, these dependent claims recite patentably distinct features and/or combinations of features that make them allowable, notwithstanding the allowability of their base claim 11.

For example, claim 15 presently reads as follows:

15. The system of claim 11, further comprising:
means for storing graphical user interface (GUI) code defining a GUI associated with one of the network elements;
means for retrieving the GUI code in response to a request received from one of the clients; and
means for transmitting the retrieved GUI code to the one client,
wherein the request identifies the one client. (Emphasis added).

For at least reasons similar to those set forth in the arguments for allowance of claim 6, Applicants respectfully assert that *Shah* fails to disclose at least the features of claim 15 highlighted hereinabove. Accordingly, the 35 U.S.C. §102 rejection of claim 15 is improper and should be withdrawn, notwithstanding the allowability of independent claim 11.

Claim 17

Claim 17 presently stands rejected under 35 U.S.C. §102 as allegedly being anticipated by *Shah*. Claim 17 presently reads as follows:

17. A method for managing elements of a communication network, comprising the steps of:
tracking which of the network elements are of interest to a plurality of clients;
automatically monitoring the network elements based on the tracking step; and
providing the clients with information indicative of the monitored elements. (Emphasis added).

For at least reasons similar to those set forth in the arguments for allowance of claim 1, Applicants respectfully assert that *Shah* fails to disclose at least the features of claim 17 highlighted hereinabove. Accordingly, the 35 U.S.C. §102 rejection of claim 17 should be withdrawn.

Claims 18-26, 32, and 33

Claims 18-26 presently stand rejected in the Office Action under 35 U.S.C. §102 as allegedly being anticipated by *Shah*. Further, claims 32 and 33 have been newly added via the amendments set forth herein. Applicants submit that the pending dependent claims 12-16, 32, and 33 contain all features of their respective independent claim 11. Since claim 11 should be allowed, as argued hereinabove, pending dependent claims 12-16, 32, and 33 should be allowed as a matter of law for at least this reason. *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988). Furthermore, these dependent claims recite patentably distinct features and/or combinations of features that make them allowable, notwithstanding the allowability of their base claim 11.

For example, claim 22 presently reads as follows:

22. The method of claim 17, further comprising the steps of:
storing graphical user interface (GUI) code remotely from the clients,
the GUI code defining a GUI associated with one of the network elements;
retrieving the GUI code in response to a request received from one of
the clients; and
transmitting the retrieved GUI code to the one client,
wherein the request identifies the one network element. (Emphasis
added).

For at least reasons similar to those set forth in the arguments for allowance of claim 6,
Applicants respectfully assert that *Shah* fails to disclose at least the features of claim 22
highlighted hereinabove. Accordingly, the 35 U.S.C. §102 rejection of claim 22 is improper
and should be withdrawn, notwithstanding the allowability of independent claim 17.

In addition, claim 23 presently reads as follows:

23. The method of claim 22, further comprising the steps of:
enabling a user to *update the stored GUI code;*
detecting *an update to the stored GUI code;* and
transmitting *the updated GUI code* to the one client in response to the
detecting step. (Emphasis added).

For at least reasons similar to those set forth in the arguments for allowance of claim 7,
Applicants respectfully assert that *Shah* fails to disclose at least the features of claim 23
highlighted hereinabove. Accordingly, the 35 U.S.C. §102 rejection of claim 23 is improper
and should be withdrawn, notwithstanding the allowability of independent claim 17.

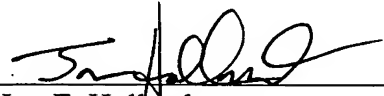
CONCLUSION

Applicants respectfully request that all outstanding objections and rejections be withdrawn and that this application and all presently pending claims be allowed to issue. If the Examiner has any questions or comments regarding Applicants' response, the Examiner is encouraged to telephone Applicants' undersigned counsel.

Respectfully submitted,

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